

WEATHER  
Snow or rain  
tonight and Tuesday

# TONOPAH DAILY BONANZA

Today's Silver  
Quotation 51 7-8

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## DECISION IN THE TONOPAH LUMBER RATE CASE

### OWN FAULT WAS DEATH OF SEWALL

SEWALL, THE DEAD BRAKEMAN,  
SEEMS TO HAVE BEEN  
CARELESS AT WORK.

From fuller reports of the sad death of W. K. Sewall, the switchman killed at Millers on Saturday morning, it appears the accident was due principally to the dead man's own carelessness. The Tribune got the story when the body arrived in Goldfield. That paper says of the occurrence:

"According to official reports, the switch was being made to get down to the Belmont mill. Desiring to drop the caboose, Sewall and Conductor Poupert were on the caboose as it was 'kicked back' down the main track. Sewall jumping off at the switch to turn it after the caboose passed, Poupert remaining on the platform furthest from the engine to put on the brakes when it had reached the desired clearance distance.

"Sewall unlocked the switch as the engine came to a standstill within about two feet of the switch point, but for some unexplainable reason he neglected to throw the switch after unlocking it.

"He stepped toward the engine, grasped the handrail with his right hand, stepped onto the footboard with his right foot, and as he swung out of sight behind the tank, gave Engineer Daniels the 'high sign' to back up. The cries of the unfortunate man as he was being mangled under the wheels was the first intimation of an accident.

"Quickly stopping the engine within eight feet of where it had started when Sewall gave the signal, Daniels found Sewall under the wheels, his left leg and body lying on the rail and his right leg outside of the track. Sewall was on his back with his left heel firmly wedged in the switch point which he had left open by failing to throw the switch. The wheels had run the entire length of his limb and onto the lower part of his abdomen.

"The only explanation that can be given is that Sewall suddenly noticed that he had not thrown the switch, and in attempting to step off the footboard, had caught his heel in the open joint and was dragged under the wheels as the engine backed."

### GOVERNOR WILL PROBABLY VETO INSPECTOR BILL

CARSON CITY, Nev., Feb. 13.—The general impression is that Governor Oddie will veto the bill that recently passed the assembly and which will be certain to pass the senate, which adds two years to the term of office for which Mining Inspector Ryan was elected. The Democratic minority in the assembly slipped this bill through while the Republicans were slumbering one rainy afternoon, and none of the majority woke up until after the deed was done. That the bill will pass the senate, which is heavily Democratic, is assured, but that it will become a law is much doubted.

The people of the state voted for Ryan for a two years' term and it is understood that Governor Oddie will take the stand that his term should not be increased. The bill, if it becomes law at all, will probably provide for a four-year term after the expiration of Ryan's present term. Governor Oddie will probably veto the bill and will make that recommendation in his message.

WOULD DISARM JAPS.  
OLYMPIA, Wash., Feb. 13.—The senate passed a bill that allows who carry firearms must be licensed. The bill is designed to prevent Japanese having guns or rifles. No permit will be granted unless vouched for by the consul.

### NEW LIGHTS BE INSTALLED NEAR FUTURE

THEIR INSTALLATION WILL DEPEND UPON HOW SOON MATERIAL GETS HERE.

How soon the new electric lights will be installed on the streets of Tonopah will depend upon whether the material is shipped from San Francisco or Pittsburg, stated Manager Bruce of the electric power company this morning. An effort is being made to get the required equipment from the coast metropolis, which would mean about a week, but enough of it may not be in stock there, and its shipment from the east will be necessary. That would take about four weeks.

Asked as to how the added fifty lights would be placed, Mr. Bruce stated that he would submit a blueprint to the commissioners showing just how the electric lights might be best located. As he figured, there would be only eighteen of the fifty lights that could not be supplied from the present pole system, and for these additional wires would have to be strung.

Mr. Bruce explained that the electric lights would be installed wherever needed. If a new light was needed between two of the present gaslamps it would be put there.

#### A HOLIDAY.

Yesterday being Lincoln's birthday, a legal holiday, it is being observed today. The banks and the postoffice are all closed today.

### ARCHBISHOP RYAN HAS NOW PASSED AWAY

DEATH COMES TO MOST PROMINENT PRELATE IN PHILADELPHIA SATURDAY.

PHILADELPHIA, Feb. 13.—Serene and prepared to meet his God, whom he had served so well, the most Reverend Patrick John Ryan in D. D. 11, archbishop of Philadelphia and metropolitan of Pennsylvania, most prominent prelate on the American continent, passed peacefully into eternity at 4:08 o'clock Saturday afternoon at the Arch-Episcopal residence in Logan Square.

For weeks the distinguished prelate, who would have been 80 years old had he lived until February 20, fought off death, but a weak heart, enfeebled by the arduous duties of his office, could not stand the heavy strain, and he passed away breathing the benediction, "God bless you," upon those who stood about the bedside.

The four attending physicians at 3 o'clock announced that the end was not far off. About this time the stricken metropolitan roused himself and murmured the dying words of St. Paul:

"I wish to be dissolved and be with Christ."

An hour later the final struggle came and messengers hurried to summon priests in the nearby cathedral. As they entered the sickroom, Father Charles F. Kavanaugh, the archbishop's secretary, intoned the responses.

The archbishop's mind for a moment cleared sufficiently to comprehend the significance of the scene, and with the words, "God bless you," on his lips, sank back and passed away.

#### COAL LAND FRAUD CASE.

DENVER, Feb. 13.—Suit has been brought in the federal court by District Attorney Ward against the Primrose and Rugby Coal companies of the Trinidad district, charging them with fraudulently acquiring local lands worth \$20,000 by dummy entrymen.

A good time for all tonight at the Presbyterian church.

### Opinion is Very Comprehensive and Far Reaching and Lays Down Invaluable Rule That Powers of the Commission are Very Clearly Defined.

The decision of United States Circuit Judge Morrow, in the injunction brought by the Tonopah & Goldfield railroad against the railroad commission of Nevada, seeking to prevent the putting in force of the reduced lumber rate from Verdi to Goldfield, is given in full below. It is rather interesting reading for a legal paper.

The rates on lumber, it will be remembered, were reduced from \$13 a ton to \$8 a ton, or from \$19.50 to \$12 per thousand feet, in carload lots, by the commission. This is at the rate of \$.0396 per ton per mile, at a cost to the road of \$.0289, as shown by the commission, disproving the contention of the railroad that the traffic was handled at a loss.

The commission made a good fight for lower rates, and the principles laid down in the decision will be read with interest. It is given herewith:

IN THE CIRCUIT COURT OF THE UNITED STATES, NINTH CIRCUIT, DISTRICT OF NEVADA.

George D. Woodside, Complainant, vs. Tonopah & Goldfield Railroad Company, a corporation; Railroad Commission of Nevada, H. F. Bartine, Henry Thurtell and J. F. Shaughnessy, as commissioners thereof; Denver S. Dickerson, as Acting Governor of the State of Nevada, and R. C. Stoddard, as Attorney General of the State of Nevada Defendants, No. 1141.

Southern Pacific Company, a corporation, Complainant, vs. Railroad Commission of Nevada, H. F. Bartine, Henry Thurtell and J. F. Shaughnessy, as commissioners thereof; Denver S. Dickerson, as Acting Governor of the State of Nevada, and R. C. Stoddard, as Attorney General of the State of Nevada, Defendants, No. 1142.

James F. Dennis, attorney for complainant, George D. Woodside; Cleveland H. Baker and H. F. Bartine, attorneys for defendants. Charles R. Lewers and C. W. Durbrow, attorneys for complainant, Southern Pacific Railroad company; Cleveland H. Baker and H. F. Bartine, attorneys for defendants.

IN EQUITY: Action to enjoin the railroad commission of Nevada from enforcing certain railroad rates fixed by the commission for the transportation of forest products between designated points in that state.

Before Morrow, circuit judge, and Farrington and Van Fleet, district judges (convened under the provisions of section 17 of the act of June 18, 1910: 36 Stat. 577).

Morrow, circuit judge (orally).

These two actions are suits in equity brought by the complainants to restrain the railroad commission of Nevada from enforcing joint rates for the transportation of forest products in carload lots from Verdi, in the state of Nevada, to Tonopah and Goldfield, in the same state. The distance from Verdi to Goldfield is approximately 290 miles. For the distance of 190 miles from Verdi to Mina the transportation is over the main line of the Southern Pacific railroad between Verdi and Hazen and over a branch line between Hazen and Mina. From Mina to Goldfield, a distance of about 100 miles, the transportation is over the Tonopah & Goldfield railroad.

The present freight rate on forest products from Verdi to Goldfield is 65 cents per hundred pounds in carload lots, or \$13 a ton, or the estimated equivalent of \$19.50 for the thousand feet of lumber. The railroad commissioners have reduced this rate and prescribed for lumber and articles taking lumber rates, joint rates from Verdi to Goldfield of 40 cents to the hundred pounds in carload lots, or \$8 a ton, or the estimated equivalent of \$12 for the thousand feet of lumber. The railroad commissioners have also made a classification for rough timber, for which they have prescribed a rate of 25 cents per hundred in carload lots, or \$5 per ton, the equivalent of \$7.50

per thousand feet. The latter rate appears to be the important one in these cases, as it includes mining timbers.

Complainants allege that the rates prescribed by the railroad commission for the transportation of forest products between the designated points are unreasonable and unjust, unremunerative and confiscatory; that the authority of the railroad commission was to prescribe reasonable rates, rates that would be fair and just and yield a fair and just return; and that they have no power to prescribe rates that are not reasonable and just; and that in prescribing the rates they now propose to enforce, they have exceeded their powers under the law.

The jurisdiction of this court is invoked in both cases, on the ground of diverse citizenship. The complainant, Woodside, in the first named case, is a citizen of the state of Pennsylvania, and a stockholder of the Tonopah & Goldfield railroad, and the suit is brought by him against the railroad company, a corporation of the state of Nevada, and the railroad commissioners of Nevada to prevent the enforcement of these rates.

In the second case, the Southern Pacific company is a corporation organized under the laws of the state of Kentucky. And the action is likewise against the railroad commissioners of Nevada.

The defendants have answered as they are required to do under the statute, and have fully met and denied all of the equities of the complainants. The answers are specific and under oath. In equity practice this is usually deemed sufficient to dissolve a restraining order and prevent the issuance of an injunction pendente lite; that is to say, where the equities of the bill are denied fully and explicitly by a sufficient answer oath, the court usually denies an injunction pendente lite for the reason that such an answer is deemed to overcome the equities of the bill.

We may, however, refer to some features of the controversy as shown by the bill and answer and supporting affidavits. The allegations of the bill of complaint are very general in their character. They charge the railroad commission with having, as I said before, exceeded their powers in unlawfully prescribing rates that are unreasonably and unjustly low and unremunerative and confiscatory, and, in the Woodside case, it is charged that these rates will deprive the railroad company of its property without due process of law in violation of the constitution of the United States. In the Southern Pacific case the charge is that the rates prescribed will result in discrimination against points outside of the state, and that the enforcement of these rates will interfere with interstate commerce.

It appears that there is a joint rate for the carrying of forest products from Truckee, Loyalton and Fulda, in California to Tonopah and Goldfield, which is the same rate now established by the railroads from Verdi to the same points, namely, 65 cents per hundredweight by the carload lots; and it is charged that if the rate fixed by the railroad commission for the state of Nevada is enforced, it will make an unlawful discrimination with respect to the products transported from Truckee, Loyalton and Fulda, in California, to Tonopah and Goldfield, in Nevada, as compared with the rates from Verdi, in Nevada, to Tonopah and Goldfield, in Nevada. That is the main feature of the Southern Pacific case, that it interferes with interstate commerce. Ultimately this charge resolves itself into a constitutional question, whether the order of the railroad commissioners is an interference with the exclusive power of congress to regulate commerce among the several states. The present rate for transporting forest products from points in California to points in Nevada has been fixed by the railroads and not by the authority of the interstate commerce commission. The order of the railroad commission does not, therefore, interfere

### WOMAN PUT UP VICTORIOUS FIGHT

MAN GRAPPLES WITH THUG  
AND WOMAN TAKES HIS  
REVOLVER AWAY.

DENVER, Feb. 13.—After he had shot a patron of the White House cafe whom he mistook for the cashier, a holdup was disarmed by two women last night and held by them until the arrival of the police. The holdup gave his name as Louis Wilson, but receipts of the Odd Fellows' order, found on his person, bear the name of Louis Weeheter. The receipts were issued by a lodge in Philadelphia.

Wilson entered the cafe and ordered W. Clifford Barrows, who was sitting near the cash register, to hand over the money in the register. Barrows, who is an employee of a local hardware company, refused and grappled with the holdup man.

In the tussle the gun which the would-be robber carried was discharged, the bullet entering Barrows' side. At this juncture Mrs. W. J. Huff, proprietress of the cafe, and her daughter, Mrs. C. E. Schroeder, appeared, disarmed the intruder and held him under cover of the revolver until the police arrived.

Wilson was taken to the headquarters and Barrows hurried to the county hospital. It is believed that Barrows' wound is fatal.

Wilson refused to explain the possession of the lodge receipts and insisted that Wilson was his real name.

### TUNEFUL TEAM OF FUNMAKERS AT BUTLER

THOMAS AND WARD ARE PURVEYORS OF THE REAL THING IN MUSIC AND MIRTH.

Seeing Thomas and Ward, who are slated for their first night at the Butler tonight, is like seeing the Black Patti and an all-concocted show at once. One gets the fun along with the melody.

From the advance notices this tuneful team of fun-makers is all to the good. They have been drawing big houses on the circuit, and from all reports they proved themselves prime favorites. There are certain dances and certain classes of music wherein the negro reigns supreme—his best imitators are but imitators. And it is in the rendition of this class of business that this team are seen at their best.

They are booked for a week's engagement by Manager Goodfriend, and they will make frequent changes in their program during the week. They should fill the house at each performance nightly.

with any authority of the federal government to regulate commerce between the several states; that authority not having been expressed or declared. A rate fixed by a state railroad commission for interstate traffic, if just and reasonable in and of itself, cannot be held to be unlawful and discriminatory because it may conflict with some rate fixed by the railroad company for interstate traffic. Upon adjustment the latter rate must yield. This we think is a complete answer to the allegations of the bill in the Southern Pacific case.

In the Woodside case there is an allegation in the complaint to the effect that if the rates prescribed by the railroad commission have been in effect for the seven months ending July 31, 1910, it would have resulted in giving the railroad company a revenue of \$.0396 of a cent per ton per mile in the transportation of these forest products originating at Verdi; and it is said that the cost of all the freight, not the cost of transporting the forest products, but the cost of trans-

(Continued on page 3)

### LOCAL MAN LOST TO VIEW MYSTERIOUSLY

EDWARD LYONS IS NOT TO BE FOUND BY OFFICERS—MISSING SINCE AUG. 10.

A local miner and prospector named Edward Lyons, who left here last summer and went to Ely, and from there disappeared, is being hunted high and low by the officers of the state. So far without results.

His wife, who with her two children are left destitute in Tonopah by the husband's absence, invoked the aid of the police in the hunt for husband. Chief of Police Smith communicated with the authorities in Ely and had them try to locate the man, but he could not be traced there after August. That was the last seen of him there.

It was thought by his wife that possibly he might have died in Ely, as the last letter she received from him stated that he was suffering from blood poisoning. But no evidence of his death could be found, either. Altogether the case is a very mysterious, as well as a very pitiable, one. The wife says she is confident that her husband has not deserted her, as they were on the best of terms. He, she thinks, must have met an accident in the hills and lost his life far from help. In the meantime, the poor wife and the helpless little ones are here in Tonopah, waiting and watching, eking out a bare livelihood.

### WILL BE OUT AGAIN IN A WEEK OR SO

Charles Treloar, who was hurt at the West End Friday evening, is improving rapidly at the hospital, and his physician thinks he will be out on the streets again in a week or so. His injury was limited to breaking some of the bones of the vertebra, and the Bonanza simply described the injured part as the backbone to avoid the use of technical terms.

### THREE GOLD BARS FROM MANHATTAN

O. B. Steen, who came to town the other day with Dr. Teechow and Walter Lamb, brought with him three gold bars, worth \$10,000, the product of a short run at the War Eagle mill of ore from the Steen-Poak-Chapman lease on the Big Four. The major portion of the ore from the lease dump is still to be treated.

### LOS ANGELES WANTS NEXT CONGRESS

CHICAGO, Feb. 13.—Los Angeles is an early contender for the twentieth annual sessions of the National Irrigation Congress in 1912.

George H. Hutton, judge of the superior court of Los Angeles county, Cal., says in a letter just received at executive headquarters of the congress in Chicago:

"Los Angeles is going to be in Chicago early and strong. We want the congress in 1912 and will go fully prepared to meet every requirement, and, I believe, from the tacit understanding that seemed to prevail last year that it will be almost conceded to us."

Los Angeles entertained the second congress in 1893, when J. S. Emery of Lawrence, Kan., was the president. William E. Smythe of San Diego, Cal., father of the organization, was chairman of the executive committee, the secretary being Fred L. Allen of Los Angeles. Sacramento, Cal., was the convention city in 1907.

#### AGRICULTURAL BILL.

WASHINGTON, Feb. 13.—The house Saturday passed the agricultural bill carrying an appropriation of approximately \$15,500,000 for the operations of the department of agriculture for the next fiscal year.

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